UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,362	02/06/2002	Virinder M. Batra	RSW 920010185US1 (7161-18	6050

46320 7590 08/31/2007

CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 3020
BOCA RATON, FL 33487

EXAMINER	
WIDHALM, ANGELA M	
ART UNIT	**PAPER NUMBER**
2152	
MAIL DATE	**DELIVERY MODE**
08/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/068,362
Filing Date: February 06, 2002
Appellant(s): BATRA ET AL.

Scott D. Paul, Reg. No. 42,984
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1 June 2007 appealing from the Office action mailed 6 March 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6473609	SCHWARTZ ET AL.	10-2002
6829484	KIMOTO ET AL.	12-2004

20020055924	LIMING	5-2002
6167441	HIMMEL	12-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant claims storing a network request, forwarding this network request, rejecting this network request, using the stored network request to modify the rejected network request, and forwarding this modified network request, and performing the processing that was requested in the modified network request. It is not clear how the modified network request is any different than the original network request because the stored request is the same as the rejected network request. Applicant's specification describes storing information from within network requests or information relating to network requests (see p. 9 lines 5-6 and 15-16, p. 10 lines 10-11).

Although applicant claims a method and not a system, the system components are still needed to define the scope of the claims. As currently claimed, it is not clear where network requests are being stored and it also not clear which devices perform the claimed functions. Applicant argues that this shows the breadth of and not indefiniteness of the claims, however, examiner disagrees and maintains that the system components are needed for one of ordinary skill in the art to understand how to make and use the claimed invention. The specification does not provide support for the multiple broad interpretations of the claims so that one of ordinary skill in the art would know which devices are intended to perform the claimed steps.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz et al. (U.S. Patent 6,473,609), hereafter referred to as Schwartz.

Regarding claims 1 and 7, Schwartz disclosed a system for requesting location-based services comprising the steps of:

responsive to receiving a network request for location-based processing from a pervasive device (*A URL request is a network request for location-based processing since a URL request is a request to access information at a specific location. The user sends a URL request from a mobile device to the control engine in the link server.* See abstract lines 5-12, col. 2 lines 50-58, col. 11 lines 4-14, col. 17 lines 24-27, col. 21 lines 4-5, figs. 3 & 6), storing said received network request (*The link server maintains a history of requests.* See col. 16 lines 21-23) and forwarding said received network request to a selected location-based application (*The link server forwards URL requests to the appropriate network servers and applications.* See fig. 6);

receiving a rejection response to said forwarded network request and identifying in said rejection response a request for required location information (*The user receives a request for more information before being able to receive the requested document.* See figs. 7E-7G, col. 17 lines 35-45, col. 21 lines 5-6); and

locating said required location information (*The user is able to provide the requested location information, e.g. town information.* See col. 17 lines 36-39), formulating an augmented network request with said required location information (*An updated request is generated with the location information, e.g. town information, provided by the user or by the link server if the information was stored in memory, as further discussed in the next paragraph.* See col. 17 lines 39-41), and forwarding said augmented network request to said selected location-based application, said selected

location-based application performing said location-based processing using said required location information provided in said augmented network response (*The updated request is sent to the network server to be fulfilled.* See col. 17 lines 41-43).

Although Schwartz did not explicitly disclose using information from within a stored network request to fulfill requests for additional information, Schwartz did explain that stored information could be used to fulfill requests (see col. 17 lines 43-45). It would have been obvious to one of ordinary skill in the art at the time of invention to use Schwartz's use of previously stored information to fulfill requests for additional information, as claimed. Fulfilling requests locally would reduce needless network traffic and conserve network bandwidth.

Claims 1-4 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimoto et al. (U.S. Patent 6,829,484), hereafter referred to as Kimoto, in view of Liming (U.S. Patent Publication 2002/0055924).

Regarding claims 1 and 7, Kimoto disclosed a system for requesting location-based services comprising the steps of:

receiving a network request for location-based processing (see col. 31 lines 47-56; *user requests a location-based service*; col. 12 lines 35-39; *an information requesting unit for requesting position information or related services from an information center*) from a pervasive device (see figure 6 #4; *mobile terminal*);

forwarding said received network request to a selected location-based application (see figure 18 #S2-S5; *request for a map is sent from the mobile terminal to the WWW server and then to the CGI program*);

receiving a rejection response to said forwarded network request (see figure 18 #S8, figure 46 #D3, *negative outcome is a rejection response*) and identifying in said rejection response a request for required location information (see figure 46 #D5, *selection offered to user is a request for required location information*); and

locating said required location information (see col. 50 lines 33-35, figure 46 #D6; *options are displayed on mobile device for user to make a selection*), formulating an augmented network request with said required location information (see col. 50 lines 33-34, figure 46 #D6; *user selects a landmark from the options provided by the server*), and forwarding said augmented network request to said selected location-based application (see col. 50 lines 35-36, figure 46 #D6; *user's selection is transmitted to information center*), said selected location-based application performing said location-based processing using said required location information provided in said augmented network response (see col. 50 lines 37-41, figure 46 #D7,figure 18 #S6'; *program retrieves map*).

Kimoto did not explicitly disclose storing a received network request or using the stored network request to find required location information. However, in an analogous art, Liming disclosed storing network packets, i.e. network request, at intermediate or final destinations (see paragraph 154). Within these packets was spatial information (see paragraphs 94, 168), which was also stored (see paragraphs 74, 89). Liming then

also described retrieving network packets and location information from storage (see paragraphs 49, 154, 107, 93).

It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate stored network requests and a transaction log into Kimoto's location-based processing system to reduce the need to repeat previously performed functions. This transaction log would also be obvious and useful for back-up purposes so that less information would be lost in the case of a power failure.

Regarding claims 2 and 8, Kimoto-Liming disclosed wherein said network requests are hypertext transfer protocol (HTTP) requests (see Kimoto col. 35 lines 23-28; figure 18 #S3) and said rejection response is a class 4xx HTTP rejection response (see Kimoto col. 35 lines 39-47, figure 18 #S8; *data not found error message*).

Regarding claims 3 and 9, Kimoto-Liming disclosed caching said augmented network requests (see Kimoto col. 55 lines 1-12).

Regarding claims 4 and 10, Kimoto-Liming disclosed the system of claims 3 and 9, including comprising the steps of:

determining whether a valid augmented network request associated with said received network request can be located within said cache (see Kimoto figure 63 #A3); and,

if said valid augmented network request can be located within said cache, forwarding said valid augmented network request to said selected location based application (see Kimoto figure 63 #A4); and

if a valid network request cannot be located within said cache, storing said received network request (see Kimoto figure 63 #A6) and forwarding said received network request to application (see Kimoto figure 63 #A5).

Claims 5-6 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimoto-Liming as applied to claims 4 and 10 above, and further in view of Himmel (U.S. Patent 6,167,441).

Regarding claims 5-6 and 11-12, Kimoto-Liming disclosed the limitations, substantially as claimed, as described in claims 4 and 10, further including pattern recognition (see Liming claim 24; *user behavior patterns*) and being unable to provide information as requested (see col. 35 lines 41-44; *data not found error message*).

Kimoto-Liming did not explicitly disclose recognizing a pattern for which information could not be provided as requested in rejection response, formulating an association between this pattern and a particular request, i.e. a set of information, and storing this information, e.g. device type, according to the determined association.

However, in a related art, Himmel disclosed an inventive concept wherein a client snooper gathers information to determine an unknown device type (see col. 8 lines 42-48). The association between this information and a device type is stored (see col. 8

lines 47-50, col. 9 lines 3-5) so that redirection of a web page could occur automatically the next time a request is received from that device (see col. 8 lines 50-51, col. 9 lines 5-6). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate Himmel's pattern recognition with Kimoto-Liming's location-based processing system to improve accuracy and reduce ambiguities in the results provided to the user.

(10) Response to Argument

Regarding appellant's arguments regarding examiner's previous rejections under 35 USC 112 second paragraph, examiner did not intend to imply that the claims are not enabled. Examiner agrees that the claims are enabled; however the scope of the claims is not commensurate with appellant's disclosure. This discrepancy is the issue being addressed in the various rejections under 35 USC 112 second paragraph. Examiner understands that a broad claim is not necessarily indefinite, however the scope of the current claims is not in synch with the scope of the disclosure. Appellant's arguments are focused on the interpretation of location-based processing in light of pages 1-4 of appellant's disclosure. This section provides examples in which restrooms, restaurants, and weather forecasts are provided based upon the actual geographic location of the mobile user. Although these examples are helpful, they are still examples and do not provide an explicit definition of location-based processing. Therefore, the scope of the claimed invention includes processing based on geographic location, spatial location, and network location. Examiner has rather rejected these

claims under 35 USC 112 second paragraph to point out the difference in scope between appellant's specification, arguments, and claims. Describing specific system components would help define the scope, as well as including in the claims more detail as to which interpretation of location-based processing is intended.

Regarding appellants arguments concerning the Schwartz reference (appeal brief p. 7-10), appellant explains, "a request for location-based processing is a sub-set of possible URL requests. Not all URL requests are for location-based processing." Appellant further points out pages 1-4 of appellant's disclosure to explain location-based processing. This section provides examples of location-based processing in which restrooms, restaurants, and weather forecasts are provided based upon the location of the mobile user. Although these examples are helpful, they are still examples and do not provide an explicit definition of location-based processing. Examiner was attempting to aid in furthering prosecution by pointing out other interpretations of location-based processing that falls within the scope of the claimed invention. A URL request falls within this scope, as do GML and GPS supported location-based processing. The URL request contains the address of a server and requests access to information located at that specific server. Because there is no definition in appellant's disclosure or the appealed claims, location-based processing is interpreted to mean the processing of information relating to a location, e.g. a network address. Schwartz follows this interpretation.

Appellant also argues that the request for more information taught by Schwartz is not a rejection response (appeal brief p. 10). Examiner respectfully disagrees. A rejection is a refusal to do something. There are many reasons for refusing to do something – one of which is not being able to do something. Schwartz described sending a request and receiving a response indicating that the request was not completed. Schwartz's response is a request for more information and is interpreted to be equivalent to a rejection response because the original request lacked necessary information and could not be completed as requested. In other words, the original request was rejected due to lack of information. A new request is then sent with the additional information. And regarding appellant's argument that the request for more information taught by Schwartz is not a request for the location of the pervasive computing device, examiner responds that the claim states "a request for required location information." There is no explicit definition in appellant's disclosure or within the claims that "required location information" is the location of the pervasive computing device. The pervasive device sends the network requests for location-based processing, however there is also nothing in the claim linking the location of the pervasive device with the required location information.

As to appellant's argument that Schwartz did not disclose fulfilling requests for additional information with stored information and that one of ordinary skill in the art would not have been motivated to do so based on Schwartz' teachings (appeal brief p. 10-12), examiner respectfully disagrees. Schwartz described sending a request and in response to this request, receiving a request for more information. The user then

provides the additional information and the previous request is updated, i.e. a new request is generated. This new request is then passed to a link server and then either filled from information stored in the link server or the request is passed again to a network server. Examiner provided a 35 USC 103(a) rejection because Schwartz did not explicitly disclose providing the requested additional information from a stored request. Schwartz disclosed fulfilling other requests with stored information instead of forwarding those requests to another server. Filling requests locally when possible reduces needless network traffic and conserves network bandwidth. Therefore the capability to fulfill requests with stored information and the motivation to do so was described. It would have been obvious to one of ordinary skill in the art at the time of invention to fulfill requests for additional information with stored information and thereby reduce needless network traffic.

Regarding appellants arguments concerning the Kimoto reference (appeal brief p. 12-15), appellant repeats the arguments provided in the pre-appeal conference and also repeats examiner's response to these arguments. Appellant maintains the previous arguments that figures 18 and 46 are unrelated and do not teach the claim limitation "identifying in said rejection response a request for required location information." Appellant further argues that step D1 of figure 46 does not correspond to the claimed request for location-based processing and that step D1 does not request anything. Examiner did not cite step D1 of figure 46 to teach a request for location-based processing. Figure 46 is a registration process in which additional location

information is requested of the user. When starting the registration process, a request to begin the registration process is inherently included. A user sends position information and during the registration process, additional information is requested.

Appellant also maintains the argument that examiner is misinterpreting location-based processing, however, examiner repeats that appellant's disclosure provides examples and not a definition of location-based processing. Examiner therefore interprets location-based processing as the processing of information relating to a location, e.g. physical location. Kimoto follows this interpretation by providing information based on a user's physical location.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Angela Widhalm

Angela Widhalm
Patent Examiner
Group Art Unit 2152

Dated: 27 August 2007

Conferees:

/Lynne H Browne/
Lynne H Browne
Appeal Practice Specialist, TQAS
Technology Center 2100

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER 8/29/7